

TOWN OF WESTWOOD
COMMONWEALTH of MASSACHUSETTS

David W. Krumsiek, Chairman
John F. Lally
Douglas C. Stebbins



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ZONING BOARD OF APPEALS

NOTICE OF DECISION

2016 NOV - 3 P 1: 56
TOWN CLERK
TOWN OF WESTWOOD

In compliance with Chapter 40A of the General Laws of the Commonwealth of Massachusetts, you are hereby notified that the Board of Appeals has unanimously voted to grant the Petitioner, Walsh Brother Building Co, Inc. its request for a Special Permit pursuant to the Westwood Zoning Bylaw, Section 4.5.8.3 - Special Permit for Single and Two-Family Reconstruction after Catastrophe or Voluntary Demolition, to demolish the pre-existing structures on the property and to construct one single-family home. Property located in Residential District C.

PROPERTY OWNER(S): Walsh Brother Building Co, Inc.

LAND AFFECTED: 307 Pond Street, Westwood, MA
Map 28, Lot 187

The signed decision for the petition was filed at the office of the Town Clerk on **November 3, 2016**.

Any appeal of this decision shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17 and a copy delivered to Office of the Town Clerk within twenty (20) days of the date that the decision was filed in the office of the Town Clerk.

**DECISION OF THE ZONING BOARD OF APPEALS
of the
TOWN OF WESTWOOD**

PROPERTY OWNER(S): Walsh Brother Building Co. Inc.

PETITIONER(S): Walsh Brother Building Co. Inc.
11 Saddle Way
Walpole, Massachusetts 02081

LAND AFFECTED: 307 Pond Street
Westwood, Massachusetts 02090
Map 28, Lot 187

HEARING:

The Board of Appeals for the Town of Westwood held a Public Hearing according to the General Laws of the Commonwealth of Massachusetts on Wednesday, October 19, 2016 at 7:00 PM in the Champagne Meeting Room of the Carby Street Municipal Office Building, 50 Carby Street, Westwood, MA 02090 to consider the Petitioner's request for a Special Permit pursuant to the Westwood Zoning Bylaw, Section 4.5.8.3 - Special Permit for Single and Two-Family Reconstruction after Catastrophe or Voluntary Demolition, to demolish the pre-existing structures on the property and to construct a new single-family home. Property located within the Single Residence C District (SRC).

BOARD MEMBERS: John F. Lally, Chairman
Douglas C. Stebbins
David M. Belcher

APPLICABLE SECTION OF THE WESTWOOD ZONING BYLAW

4.5 NONCONFORMING USES AND STRUCTURES

4.5.8 Single and Two-Family Reconstruction after Catastrophe or Voluntary Demolition. Any single and two-family nonconforming structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions:

4.5.8.1 Reconstruction of said premises shall commence within one (1) year after such voluntary demolition, or within two (2) years after such catastrophe, which time period may be extended by the Building Commissioner for good cause.

4.5.8.2 The building as reconstructed shall:

4.5.8.2.1 be located on the same footprint as the original structure, and shall only be as great in volume or area as the original nonconforming structure; or

4.5.8.2.2 comply with all current setback, yard and building coverage requirements and shall have a maximum building height of twenty-five

(25) feet if constructed on a lot that does not comply with current lot area and lot frontage requirements.

4.5.8.3 In the event that the proposed reconstruction does not meet the provisions of Sections 4.5.8.1 and 4.5.8.2, a special permit shall be required from the Board of Appeals for such demolition and reconstruction.

5.2 TABLE OF DIMENSIONAL REQUIREMENTS¹ 2016

DISTRICTS

DIMENSIONAL REQUIREMENTS

	Minimum Lot Area (sq ft)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Nonwetland Area ² (sq ft)	Minimum Front Setback ³ (feet)	Minimum Side Yard Setback ⁴ (feet)	Minimum Rear Yard Setback ⁴ (feet)	Maximum Building Coverage (%)	Maximum Impervious Surface (%)
5.2.1	12,000	90	90	12,000	25	15 ⁵	30 ⁶	25	50
5.2.2	20,000	90	90	15,000	25	15 ⁵	30 ⁶	25	50
5.2.3	40,000	125	125	30,000	40	20 ⁷	30 ⁸	25	50
5.2.4	15,000	90	90	12,000	25	15 ⁵	30 ⁶	25	50
5.2.5	80,000	175	175	60,000	40	20 ⁷	30 ⁸	25	50
5.2.6	12,000	90	90	12,000	25	15 ⁵	30 ⁶	25	50
5.2.7	80,000	175	175	60,000	40	20 ⁷	30 ⁸	25	50
5.2.8	4,000	40	40	4,000	10	15 ⁹	15	25	80
5.2.9	4,000	40	40	4,000	0	15 ⁹	15	25	80
5.2.10	10,000	100	100	10,000	50	15	15	50	80
5.2.11	40,000	200	200	12,000	50	15 ¹⁰	15 ¹¹	50	80
5.2.12	40,000	200	200	12,000	50	15 ¹⁰	15 ¹¹	50	80
5.2.13	80,000	175	175	60,000	50	30 ¹²	30	30	50

5.3 NOTES FOR TABLE OF DIMENSIONAL REQUIREMENTS

- 1 Shall not apply to sewage pumping stations operated by the Town.
- 2 The term “Nonwetland Area” shall mean land other than the fresh water wetland as that term is defined in M.G.L. Chapter 131, Section 40. The Minimum Nonwetland Area shall be measured in contiguous square feet. The Minimum Nonwetland Area requirement of 12,000 square feet in all Residential Districts shall apply to all lots created prior to the date of adoption of this provision. M.G.L. Chapter 40A, Section 6 may also limit the requirements for certain other lots.
- 3 The minimum front setback distance shall be measured from the nearest street line; provided, however, that where the street has a right-of-way width of less than forty (40) feet, the setback distance shall be measured from a line on the lot twenty (20) feet from and parallel to the center line of said street.
- 4 The minimum side yard and rear yard setbacks shall be the minimum horizontal distance from the lot line to the nearest point of a building or structure.
- 5 Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of ten (10) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least seventy-five (75) feet shall be set back a minimum of three (3) feet from the side lines of its lot.
- 6 Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of three (3) feet from the rear line of its lot.
- 7 Except that a portion of any building or structure not exceeding fifteen (15) feet in height shall be set back a minimum of fifteen (15) feet from the side lines of its lot, and a detached accessory building or structure having a height of less than fifteen (15) feet and a front setback of at least one hundred (100) feet shall be set back a minimum of six (6) feet from the side lines of its lot.
- 8 Except that a detached accessory building or structure having a height of less than fifteen (15) feet shall be set back a minimum of six (6) feet from the rear line of its lot.
- 9 Unless the wall facing a side lot line is either a party wall or, if adjoining another lot in the same district, a wall with its outer face coincident with such line. The space between buildings or structures, if any, shall not be reduced to less than fifteen (15) feet.
- 10 Except that if the side yard abuts a railroad right-of-way, there shall be no minimum side yard setback.
- 11 Except that if the rear yard abuts a railroad right-of-way, there shall be no minimum rear yard setback.
- 12 Each side yard setback shall be increased by one (1) foot for each foot that the height of the building exceeds fifteen (15) feet; provided always that the side yards shall total not less than forty (40) percent of the lot width.
- 13 See Section 8.3 OPEN SPACE RESIDENTIAL DEVELOPMENT for density and dimensional requirements for OSRD.

FINDINGS

In consideration of all of the testimony and exhibits and documents submitted before the Board, the Board makes the following findings of fact:

1. The Petitioner proposes to demolish existing single-family residential and accessory structures, and to construct a new single-family structure which will be within the minimum required setbacks at 307 Pond Street. Relief from the minimum required setbacks pursuant to Section 5.2.1, entitled Table of Dimensional Requirements in the form of a Special Permit pursuant to Section 4.5.8.3 was requested. The Board of Appeals is the Special Permit Granting Authority.
2. The lot area of the Subject Parcel is 9,952 SF where 40,000 SF is required.
3. The lot frontage of the Subject Parcel is 197' where 125' is required.
4. The proposed new structure as set forth on plans amended during the course of the hearing will violate the front setback requirement, with 15.2' provided where 40' is required, and will violate the rear setback requirement with 26' provided where 30' is required.
5. The Subject Property constitutes an existing non-conforming structure and is eligible for consideration of a Special Permit pursuant to Section 4.5 [Nonconforming Uses and Structures].
6. The Petitioner amended submitted plans during the course of the hearing to relocate the proposed structure to a point five (5) feet further back from the Pond Street front lot line, and five (5) feet closer to the lot line abutting the property at 16 Circuit Road, than the dimensions shown on submitted plans.
7. The Board of Health issued a memorandum dated October 12, 2016 outlining requirements of the Health Department prior to construction.
8. The Board considered the impacts of all dimensional requirements given the angle of the lot, and gave particular consideration to the Petitioners' revised plan to move the structure further back from the Pond Street front lot line, which mitigates the front setback impact. Any adverse effects of the Petitioner's proposed construction will not outweigh its beneficial impact to the Town, or the neighborhood, in view of the particular characteristics of the site and the proposal in relation to that site.
9. The Petitioner's proposed construction will not have a material adverse effect on the value of the land and buildings in the neighborhood, or on the amenities thereof, or be detrimental to the normal use of the adjacent property, and it will not be injurious or dangerous to the public health or hazardous because of traffic congestion, or other reason, and any adverse effects of the proposed use do not outweigh its beneficial aspects, all in view of the particular characteristics of the site and of the proposal in relation to that site.
10. The Petitioner has met all the requirements for a Special Permit pursuant to the Westwood Zoning Bylaw.

DECISION and CONDITIONS

The Board of Appeals voted unanimously to grant the Petitioner's request for a Special Permit pursuant to Section 4.5.8.3 of the Westwood Zoning Bylaw.

1. The Project shall be constructed in conformity with the submitted plan prepared by Golemme Mitchell Architects LLC, 6 Wilkins Drive, Suite 210, Plainville, MA02762, dated August 23, 2016, consisting of three (3) sheets, and in conformity with the submitted plot plan prepared by Joyce B. Hastings, P.L.S., GLM Engineering Consultants, Inc., 19 Exchange Street, Holliston, MA 01746, dated September 13, 2016, consisting of one (1) sheet. The Petitioner shall pursue completion of the Project with reasonable diligence and continuity.
2. The Petitioner shall submit a complete set of revised plans in conformance with all revisions made during the course of the public hearing, including relocation of the proposed new building on the site to provide a 15.2' front setback from the Pond Street lot line, for review and approval by the Housing & Zoning Agent prior to application for a Building Permit.
3. The memorandum from the Board of Health to the Board of Appeals dated October 12, 2016 shall be made part of this decision and the conditions of said letter shall be carried out as specified:

The Petitioner shall use a waste hauler, licensed by the Westwood Board of Health to dispose of the construction debris.

If necessary during construction, the Petitioner shall provide a portable toilet, licensed by the Westwood Board of Health.

The Petitioner shall connect the new dwelling to the municipal sewer system in accordance with the Sewer Dept. Rules and Regulations. The existing individual on-site septic system shall be abandoned in accordance with 310 CMR 15.0000 (Title V).

The Petitioner is required to have an asbestos inspection conducted in compliance with DEP Asbestos Regulations prior to the renovation of the building.

4. This Special Permit shall not take effect until a copy of the Decision, bearing the certification of the Town Clerk that twenty (20) days have elapsed after the filing of the decision and either that no appeal has been filed or that an appeal has been filed within such time period, is recorded in the Registry of Deeds and indexed under the name of the property owner of record and the parcel address. A copy of these recordings shall be provided to the Building Commissioner, Town Clerk and the Board of Appeals.
5. **The persons exercising rights under a duly appealed special permit do so at risk that a court will reverse the permit and any construction performed under the permit may be ordered to be undone.**
6. This Special Permit shall lapse within a specified period of time, of not more than two (2) years, which shall not include such time required to pursue or await the determination of the appeal referred to in Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause. Prior to the expiration of the

Special Permit, the Applicants may apply for an extension of the Special Permit for a period not to exceed one (1) year if the substantial construction or use thereof has not commenced for good cause.

RECORD OF VOTE

The following members of the Board of Appeals voted to grant the Special Permit for the above mentioned project: John F. Lally, Douglas C. Stebbins and David M. Belcher.

The following members of the Board of Appeals voted in opposition to the grant of the Special Permit:
None.



WESTWOOD ZONING BOARD OF APPEALS

The Board of Appeals hereby certifies that the attached hereto is a true and complete copy of the Board's decision and that said decision and any plans referred to therein have been filed with the Board of Appeals.

~~David W. Krumsick - Chairman~~

Douglas Stebbins

John F. Lally - Chairman

David M. Belcher

Date 11/3/16

307 Pond Street- Walsh Brother Building Co, Inc